

REMARKS**I. INTRODUCTION**

Claim 1 has been amended. Claim 13 has been added. No new matter has been added. Thus, claims 1-13 are pending in the present application. In view of the above amendments and the following remarks, it is respectfully submitted that all of the presently pending claims are allowable.

II. THE 35 U.S.C. § 103(a) REJECTIONS SHOULD BE WITHDRAWN

Claims 1-12 stand rejected under 35 U.S.C. § 103(a) as being anticipated by U.S. Patent Serial No. 2,423,245 to Magnus et al. (hereinafter "Magnus") in view of U.S. Patent Serial No. 3,802,309 to Bosland (hereinafter "Bosland") and U.S. Patent Serial No. 2,951,140 to Polley (hereinafter "Polley"). (See 08/18/08 Office Action, p. 2-5).

Claim 1 has been amended to recite "A depilating apparatus comprising: a housing, which housing is designed to accommodate a supply of a depilating tape, wherein the depilating tape can be pulled away from the supply and can then be applied to the skin of a person, and the depilating tape, after application to the skin of a person, adheres to the skin along an application length, and application means for applying the depilating tape to the skin of a person, and an opening in the housing, which opening is provided and designed for passing the depilating tape through to the skin of a person, determination means for determining the application length along which the depilating tape adheres to the skin of a person, and *a heater for heating the depilating tape as the depilating tape is moved relative to the heater*, and a spring having a home position that moves the heater away from the depilating tape, wherein the determination means are designed to determine different application lengths as desired."

The Examiner acknowledges that neither Magnus or Bosland disclose "a heater for heating the depilating tape." (See 08/18/08 Office Action, p. 3, para. 5). The Examiner asserts

that the heating device is taught in Polley, col. 6, line 47, through col. 7 line 40. (See 08/18/08 Office Action, p. 3, para. 5).

Polley describes a system where a section of tape is cut and then the entire section is placed into the heating area (See Polley, col. 6, line 45), heated (See Polley, col. 6, line 47 through col. 7, line 67), and then ejected from the device (See Polley, col. 7, line 73 through col. 9, line 2) so that an operator can put them to a desired use (See Polley, col. 2, lines 25-26, and col. 5, lines 25-32). In this way, the system of Polley heats only one section of tape at a time, while the tape is in a stationary position. (See Polley, col. 6, lines 13-17). In contrast, claim 1 recites, "a heater for heating the depilating tape as the depilating tape is moved relative to the heater."

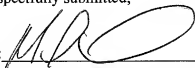
Thus, Applicants respectfully submit that claim 1 is patentable over Magnus either alone or in combination with Bosland or Polley. Thus, because claims 2-12 depend from, and therefore include all the limitations of claims 1, it is respectfully submitted that these claims are also allowable for at least the same reasons given above with respect to claim 1.

CONCLUSION

In light of the foregoing, Applicants respectfully submit that all of the now pending claims are in condition for allowance. All issues raised by the Examiner having been addressed, an early and favorable action on the merits is earnestly solicited.

Respectfully submitted,

Dated: November 14, 2008

By: 
Michael Marcin (Reg. No. 48,198)

Fay Kaplun & Marcin, LLP
150 Broadway, Suite 702
New York, NY 10038
Phone: 212-619-6000
Fax: 212-619-0276